HOMEOWNERSHIP OPPORTUNITY PROGRAM

Guidelines for Communities and Developers

October 1989

AN INITIATIVE OF THE MASSACHUSETTS HOUSING PARTNERSHIP

MICHAEL S. DUKAKIS, GOVERNOR

Massachusetts Housing Partnership
100 Cambridge Street 15th Floor
Boston, MA 02202
(617) 727-7824

MASSACHUSETTS HOUSING PARTNERSHIP
HOMEOWNERSHIP OPPORTUNITY PROGRAM
PROGRAM GUIDELINES

--------TABLE OF CONTENTS--------

------- TABLE OF CONTENTS -------
(CONTINUED)

SECTION 1. INTRODUCTION AND SUMMARY

The Homeownership Opportunity Program (HOP) is an initiative of the Massachusetts Housing Partnership (MHP) jointly administered by the Executive Office of Communities and Development (EOCD) and the Massachusetts Housing Finance Agency (MHFA). The HOP guidelines describe how the Homeownership Opportunity Program functions -- the program requirements, the subsidies involved, the application process, the roles of the developer and the community in the development process, and so on.

A. Summary

HOP is designed to encourage the development of mixed-income projects sponsored by partnerships between communities and developers. When the community and the developer work closely together, the result can be a speedier development process, a reduction in development costs, and greater affordability for homebuyers.

The Homeownership Opportunity Program provides low-cost mortgage financing for qualified first-time homebuyers for a certain number of units in each HOP development. The resale of the affordable units is restricted to maintain affordability over time. At least 30% of the project must consist of affordable units.

The 30% minimum affordability requirement typically must include some units for rental to low-income tenants. If state funding is available when a HOP application is approved, the developer may be required to offer up to five percent of the total units to the local housing authority or a local non-profit for purchase and rental to low-income families. If funding for low-income rental units is not available when a HOP application is approved, the developer may meet the 30% minimum affordability requirement with HOP-assisted units at HOP prices. Deed restrictions may be placed on the HOP units to provide the local housing authority with the opportunity to purchase up to 5% of the units at the time of resale.

Fifty percent of the HOP-assisted units must contain three or more bedrooms and sell for an average price no greater than $85,000 in condominium projects and $95,000 in single family detached or fee simple projects. The average sales price for all two-bedroom HOP-assisted units in a condominium project cannot exceed $75,000. The average sales price of the two-bedroom units in a single family detached or fee simple project cannot exceed $85,000. The sales prices of the HOP-assisted units generally will be 15% to 50% below prices for comparable market-rate units.

The HOP-assisted units will be sold to eligible first-time homebuyers with incomes typically ranging from $20,000 to $34,000. Purchasers of the HOP-assisted units will receive below-market-interest mortgages through MHFA as well as HOP interest subsidy assistance from the Massachusetts Housing Partnership. The initial interest rate on HOP-assisted mortgages may be as low as 5.5%. To preserve affordability for future buyers, the resale price of the HOP-assisted units typically will be restricted by deed to a price determined according to the initial purchase discount.

During the past two years, HOP projects were selected for funding through regularly scheduled funding competitions. All developers were required to submit applications on the same date; all applications were reviewed simultaneously by staff; all projects selected for funding were announced on

the same date. As of November 15, 1989, applications will be accepted and funding decisions made on an ongoing basis, with heavy emphasis on the project's degree of readiness and the ability of the developer to start construction shortly after receiving a funding commitment. Additional criteria for selection will include:

(a) the degree of affordability, with preference for projects serving families with the lowest incomes (at the lowest subsidy cost);

(b) the degree to which the developer has satisfied legitimate local concerns;

(c) the degree to which the chief elected official and the local housing partnership support the project;

(d) the appropriateness of the site for homeownership development;

(e) the suitability of the design;

(f) the feasibility of the project;

(g) the marketability of the project, as supported by appraisals and marketing plans.

(h) the strength of the development team;

(i) the degree to which the proposal addresses affirmative action issues.

Prior to submitting an application for funding consideration, the developer should schedule meetings with staff at MHP and MHFA to discuss project details. The proposed project should conform in every respect to funding requirements prior to submission, as the submission fee is non-refundable.

In the past, developers were required to submit one application to a funding competition. If the application was approved for funding, developers then prepared an additional application for mortgage financing for submission to the MHFA Board. As of November 15, 1989, developers will submit only one funding application. If the submission is full and complete, a funding recommendation will be made to the Secretary of EOCD and the MHFA Board approximately 60 days after the submission date.

SECTION 2. THE MASSACHUSETTS HOUSING PARTNERSHIP AND REGIONAL OFFICES

Governor Michael S. Dukakis formed the Massachusetts Housing Partnership (MHP) in 1985 and issued a clear mandate to its board and staff: the Massachusetts Housing Partnership was directed to establish a network of community-based partnerships to produce and preserve affordable housing throughout Massachusetts.

To meet this mandate, a group of state and local officials, bankers, developers, legislators, advocates, and housing experts came together to develop and coordinate resources and policies. As a result of the work of MHP, over 180 local housing partnerships have been formed statewide. Local partnerships have worked closely with developers and staff at MHP and MHFA to help stimulate the production of thousands of affordable homeownership and rental units in mixed-income developments.

MHP remains committed to the concept of the local housing partnership and is encouraging more communities to form partnerships and to take advantage of available state resources, including:

- o technical assistance to help communities formulate strategies for the development of affordable housing;
- o mixed-income rental housing financing through programs including the State Housing Assistance for Rental Production Program (SHARP), the Housing Innovation Fund (HIF), the Rental Development Assistance Loan program (RDAL), and the tax credit program;
- o mixed-income homeownership financing through HOP.

MHP Regional Staff

The Massachusetts Housing Partnership has established regional offices to assist communities in forming new local housing partnerships and to provide advice and guidance to existing partnerships. MHP regional office staff are available at the locations and numbers listed below to assist communities, non-profit organizations, and developers in their efforts to produce affordable housing through HOP or through other MHP initiatives.

MHP Regional Office	Phone Number
Central Massachusetts	(508) 870-5798
Metropolitan Boston	(617) 727-7824
Southeastern Massachusetts	(508) 833-0724
Western Massachusetts	(413) 253-7379
Northeastern Massachusetts	(617) 727-7824
Metro-West/South Shore	(617) 727-7824

SECTION 3. PROGRAM SUMMARY

A. Basic Requirements

The average price of a single family home in Massachusetts more than doubled between 1985 and 1987. With more and more households priced out of the market, the need for affordable homeownership became critical. To help fill the need, Governor Dukakis announced the Homeownership Opportunity Program in January 1986 as a major initiative of the Massachusetts Housing Partnership. Since 1986, HOP has helped finance almost 7000 total units of housing including 2200 affordable units.

But the demand for affordable units still exceeds the supply. To help meet demand, communities, developers, and the state must continue to work together to build affordable units through HOP. The community and the state -- as well as the developer -- have critical roles to fill in the HOP process. The community's role includes forming a local housing partnership to work with developers and providing resources such as below-cost sites or density relief. The state offers staff assistance to interested communities and developers as well as significant financing incentives. The Massachusetts Housing Finance Agency provides below-market mortgage financing through the sale of tax-exempt bonds, and the MHP provides additional subsidy to further reduce the mortgage interest rate for the buyer. The new homes produced through the program are affordable to households currently priced out of the housing market.

HOP is primarily a production-oriented program. In general, HOP supports the development of new housing units, either through new construction or through the renovation of space not previously used as housing. (Under some circumstances, applications for the renovation of existing housing may receive HOP consideration).

In order to be eligible for HOP financing, 30% of the total units in a project must be affordable to low and moderate income families. Typically, the 30% minimum will include affordable homeownership units -- HOP-assisted units -- as well as some units for rental to low-income tenants. Fifty percent of the required minimum percentage of affordable units must contain three or more bedrooms.

The average sales price for two-bedroom HOP-assisted units must not be greater than $75,000 in condominium projects and $85,000 in single family or fee simple projects. The average sales price for three-bedroom HOP-assisted units must not exceed $85,000 in condominium projects and $95,000 in single family or fee simple projects. The maximum sales price for any HOP unit is $95,000.

The purchasers of HOP-assisted units will receive below-market-rate mortgages through MHFA as well as subsidy through MHP. Most affordable units will be sold to eligible first-time homebuyers with incomes in the $20,000 to $34,000 range.

If state funding is available when a HOP application is approved, the developer may be required to offer up to five percent of the total units to the local housing authority or a local non-profit for purchase and use as low-income rental housing. If funding is not available, the developer may meet the 30% minimum affordability requirement with HOP-assisted units at HOP sales prices.

HOP units often sell for prices at least 15% to 50% below comparable market prices, or for a "discount" off market prices. The resale of these units is restricted by deed so that the resale price will be similarly discounted. The intent of the deed restriction is to allow the homeowner the opportunity to make a fair return on his/her investment, while preserving the affordability of the unit over the long term. At the point of resale, MHP recaptures some of the state subsidy used to lower the mortgage interest rate. Through recapture, HOP can help support the production of additional units in the future.

Buyers of HOP units generally are selected by local lottery. If a community has made substantial contributions to a HOP development, the Massachusetts Housing Partnership may permit a significant level of local preference during the HOP buyer selection process. **Local preference will be allowed only if a community has actively supported a HOP project and MHFA has approved the project's affirmative action goals. The degree of local preference for a project is determined by MHP in response to a request from the developer or the community. (Further information on local preference begins on page 26.)**

As of November 15, 1989, HOP project applications will be accepted on an ongoing basis as long as funds are available. Prior to submitting an application, the developer and the community should become fully familiar with funding criteria -- in particular, with the standard for evaluating project readiness -- and should meet with MHP and MHFA staff. (Further information on the application process begins on page 36.)

Before submitting an application, the developer and the community should determine from MHP and MHFA staff that the project has a reasonable chance of receiving a favorable evaluation. The application fee is non-refundable: if the application is not approved, MHFA retains the fee.

B. Development Types

To date, construction types approved for HOP funding have included both "stick-built" and modular designs; single family homes and townhouses; low-rise and mid-rise buildings. Communities and developers are encouraged to work together to design projects that will be successful in particular housing markets. Communities and developers also should work with agency staff to resolve design questions.

In selecting applications for funding, MHP and MHFA will give preference to projects that create "family" housing, including more than the minimum percentage of HOP-assisted units with three or more bedrooms. In addition, MHP and MHFA will give preference to single family detached and fee simple projects, since a single family home, with no condominium fee attached, may be more affordable to a lower-income household than a condominium unit. Developers proposing 100% single family detached or fee-simple HOP-assisted units will be allowed to increase the sales prices of those units by $10,000 per bedroom over the program standard for condominiums, as long as the homeownership association fee is $20 or less per month. (Further information on homeownership association fees is included on page 32.) The maximum sales price allowed will be $95,000.

C. Eligible Applicants for Funding

HOP is designed to encourage cooperative ventures between local housing partnerships and participating developers. Eligible applicants for HOP funds include a private for-profit developer, a non-profit developer, a community, or a combination of these entities. Because the Massachusetts Housing Partnership strongly encourages localities to play active roles in identifying and addressing their housing needs, HOP will give high priority to those projects submitted jointly by a community and a developer. Ideally, HOP projects should be submitted with full community support. However, developer-only submissions are allowed when it is clear that the developer has offered the community the opportunity to participate in the development process. If the community has been offered the opportunity to participate and has withheld support, the developer may seek HOP funding by demonstrating that the community's reasonable objections to the project have been addressed and that support is being unreasonably withheld.

SECTION 4. COMMUNITY ROLE IN HOP PROJECTS

A. Community Participation

The Massachusetts Housing Partnership strongly encourages cities and towns to work in close cooperation with developers to produce affordable housing. When the community works with the developer, the resulting project is more likely to reflect the community's needs, concerns, and character. The MHP emphasis on collaboration is reflected in the priority that community-supported projects are given in the HOP review process.

A community can play multiple roles in the HOP development process and can tailor the roles it chooses to play to its particular resources and capacities. If a community contributes to a HOP project in a way that reduces project costs, the savings can be passed along directly to the purchasers of the affordable homes. Possible roles that a community can play in the HOP development process include:

- o Creating a local housing partnership and establishing criteria for the development of affordable housing within the community. The partnership can define the types of housing that will be supported and can provide developers with that information.

- o Supporting a HOP project as it moves through the local permitting and approval process. This type of support from local officials can ensure an expedited review of proposals.

- o Waiving local permitting fees for HOP projects and other affordable housing developments.

- o Encouraging innovative zoning ordinances such as cluster or zero lot-line zoning or planned unit developments.

- o Using the comprehensive permit process to support the development of affordable housing.

- o Granting density increases through other zoning mechanisms, including special permits or variances.

- o Donating locally-owned sites and/or buildings.

- o Undertaking infrastructure projects that otherwise would be paid for by the developer, to reduce development costs for a project containing affordable housing.

- o Applying for state development grants on behalf of affordable housing projects to defray the cost of other improvements normally paid for by the developer.

- o Contributing local resources to be used for downpayment or closing costs by the buyers of the affordable units.

- o Assisting in the marketing of the affordable units and thereby reducing the costs borne by the developer and the homebuyer.

Communities also can contribute to HOP projects in ways other than those listed above.

B. Local Housing Partnerships and Project Review

As local housing partnerships have evolved, many have become deeply involved in responding to developer-initiated proposals. Local permitting authorities and funding agencies have asked partnerships to make recommendations on proposals. As part of the review process, many partnerships have developed detailed proposal review procedures, often including project review guidelines.

To bring consistency to the local review of projects by over 180 local housing partnerships, MHP has developed project review guidelines for partnerships establishing limits on the local review process. The instructions outline the nature of information which the local partnership may reasonably request of the developer and establish a maximum reasonable review period. Partnerships which exceed the guidelines may, by doing so, create a presumption in favor of the developer with respect to the issue of negotiating in good faith. MHP is requesting that local housing partnerships submit draft procedures and guidelines to MHP for review and comment. Staff will review these documents and advise local partnerships of requirements that appear to be unreasonable or inappropriate.

MHP has established the following general guidelines for local project review, including review of HOP projects:

o Authority of the Local Housing Partnership

Local housing partnerships are appointed by the chief elected official in each community (i.e., the mayor or board of selectmen) and recognized by the Massachusetts Housing Partnership. The purpose of local partnerships is to promote the development of affordable housing, to establish housing priorities for the community, to identify specific concerns regarding individual development proposals, and to seek favorable resolution of those concerns. The recommendations of local housing partnerships are formally considered in all housing development programs administered by MHP, the Executive Office of Communities and Development, and the Massachusetts Housing Finance Agency.

o Scope of Review

In reviewing development proposals, local housing partnerships are encouraged to address a broad range of concerns on behalf of the community-at-large. The main purpose of a local housing partnership's review of a proposal is to form a recommendation on the project and pass that recommendation on to other local boards and/or state funding agencies. The local partnership is generally focusing its review on issues pertaining to type of development, project affordability and community housing need. While a partnership may choose to review and comment on plan and design concerns, the more detailed and technical issues are generally best addressed at a later time by the appropriate local board(s).

Issues that local housing partnerships review generally include housing mix, percentage of affordable units, need for the proposed housing in relation to any community master plans, location of the housing, feasibility of the development, experience and capacity of the development team, density and layout of the site plan, building type, etc.

In order to perform a comprehensive review of the development, partnerships may request information from an applicant that:

a) is necessary for the partnership's review; and,

b) would normally be submitted to the funding agency and/or to the zoning board of appeals for a comprehensive permit.

Examples include project description, unit mix, pro forma, development team background, site footprint, building layout, etc. Local partnerships may not insist on extraordinary supplemental information such as completed architectural plans, detailed engineering studies, extensive traffic plans, etc.

- Project Recommendations

Local housing partnership recommendations should take into account that further changes may be made to the development proposal as the planning, funding, and permitting processes continue. The partnership recommendation may therefore include contingencies or conditions relating to future reviews and/or changes to the development (e.g., revised unit mix if total number of units changes). Since the partnership review is normally one of the first steps in the development process and not the final review, the partnership should stay actively involved throughout the local approval process.

- Coordination with Other Boards

Local housing partnerships are strongly encouraged to consult informally with other boards involved with housing development (e.g., the selectmen or mayor's office, housing authority, planning board, and zoning board of appeals) both to establish priorities and to review specific projects. The partnership often acts as a facilitator for various community boards in gathering and reviewing information on specific housing proposals. However, local partnerships should not interfere with the separate responsibilities of other boards such as the zoning board of appeals (for granting comprehensive permits), the conservation commission (for compliance with the Wetlands Protection Act), or the board of health (for compliance with the state Sanitary Code). Each community board has its own mandate and its own duties to perform. The local housing partnership should understand these different functions and should facilitate the work of other community boards.

- Local Development Review Standards

Local housing partnerships may devise development review guidelines to assist them in the review and processing of proposed housing projects. The guidelines may address both the process for submission of applications to the partnership and the criteria which the partnership will use in reviewing proposals. Local standards that exceed requirements of state funding programs are permitted only if they are reasonable, do not impede development, and clearly result in at least some proposals with local approval. All proposed partnership guidelines should be submitted to MHP for review and comment.

o Timeliness of Review

Local housing partnerships should review proposed projects and reach a decision within 60 days of a developer's initial application. In situations where the local partnership is requesting additional information and/or the developer is legitimately delayed in submitting information necessary for the partnership's review, the partnership should reach a decision within 30 days of the receipt of complete information.

o Fees

Local housing partnership members are volunteers and do not charge for the time involved in reviewing a project or facilitating its review through the local permitting process. The out-of-pocket expenses incurred by the partnerships usually are small. Typically, they include the cost of xeroxing and mailing materials. Such costs can be minimized by asking the proponents of the project to supply an adequate number of copies. Should a local partnership feel that its review is not complete without the analysis of a certain aspect of the proposed development, the community may request such an analysis of the developer and may apply to the MHP's Municipal Advance Program (MAP) for funds to support its review.

SECTION 5. DEVELOPER-ONLY HOP PROJECTS

In some circumstances, a developer is unable to secure the active participation or support of the community in which a HOP project will be located. The community may have legitimate grounds for denying its support for a proposal or the community may have decided to withhold support for reasons unacceptable to the state. MHP and MHFA expect the developer to make good-faith efforts to secure community support through meetings with local development officials, planning board members, the local housing partnership, and elected officials. Developers who can document good-faith efforts to secure community support can apply for HOP funding even if community support is withheld. When a developer-only application is submitted, MHP will immediately solicit project comments from the community's chief elected official and its local housing partnership (if one exists). Any legitimate planning and development concerns raised by the community will be incorporated into the HOP review process for the project. In particular, comments from local housing partnerships and chief elected officials, either in support of or opposition to a specific development, will be carefully reviewed prior to the allocation of HOP funds to any project. Failure by the developer to address legitimate concerns may eliminate a proposal from further consideration.

SECTION 6. PRIMARY REQUIREMENTS FOR ELIGIBLE PROJECTS

HOP is unique among affordable programs in that it attempts to deal directly with three affordability factors:

- o the price of units;
- o the cost of available mortgage financing; and
- o other development requirements which impact the overall cost of the proposed housing and are passed on to the buyer.

This section describes some of the major elements and requirements of HOP.

A. Minimum Percentage of Affordable Units

A central objective of the Homeownership Opportunity Program is to stimulate the production of affordable housing in mixed-income developments. A project proposed for HOP financing must contain a minimum of at least 30% affordable units in order to be eligible for the program. Units are considered affordable if they are either HOP-assisted or low-income rental units. Thirty-percent affordability is a threshold requirement for any project seeking HOP funding. **If a project does not meet this threshold, it will not be eligible for funding.**

Communities and developers are welcome to establish higher levels of affordability for HOP projects, and MHP encourages projects with high levels of affordability. Applications with greater-than-minimum levels of affordability will receive priority in the MHP/MHFA review process.

B. HOP-Assisted Units

Thirty percent of the units in every HOP project must be affordable. Half of the total required number of HOP-assisted or other affordable units must contain three or more bedrooms.

The HOP-assisted units should be targeted for purchase by households earning no more than 80% of median income according to established program standards. HOP-assisted units also should be priced so that buyers earning a range of incomes will be eligible to purchase. Approximate income ranges will be established for each HOP sales price, as described on page 19 of these guidelines.

HOP-assisted units generally will be available to households earning between $20,000 and $34,000, with some exceptions. Mortgage financing at below-market interest rates will be available through MHFA for eligible HOP buyers, with additional interest subsidy available through MHP. The initial interest rate for HOP buyers may be as low as 5.5%.

Some developers may choose to fulfill part of the three-bedroom minimum requirement by building two-bedroom units with additional unfinished expansion space. MHP and MHFA will accept such projects for consideration if the following conditions are met:

(a) No more than half of the units intended to meet the three-bedroom minimum requirement contain unfinished expansion space;

(b) The sales prices for units with expansion space must meet HOP guidelines for two-bedroom HOP-assisted units. The sales prices for three-bedroom units set forth in these guidelines apply only to fully-finished units;

(c) To count towards the three-bedroom minimum, expansion space must be partially finished -- at minimum, studded with rough utilities (electrical, plumbing, heat) in place; and

(d) Units containing unfinished expansion space must meet all the design requirements for three-bedroom HOP units set forth in appendix A of these guidelines. Requirements include minimum square footage; number and location of bedrooms and bathrooms; etc.

C. MHFA Units

Some developers and communities choose to include an additional category of unit -- the "MHFA-financed" unit -- in HOP projects. MHFA-financed units differ from HOP-assisted units in the following ways:

- Although MHFA provides low-interest mortgages for MHFA-financed units, the Massachusetts Housing Partnership **does not** provide additional interest write-down through HOP subsidies. The interest rate on mortgages for MHFA-financed units generally is 1% to 2% below conventional rates; the initial interest rate on HOP-assisted units generally is 3% below the MHFA rate and 4% - 5% below conventional rates.

- Purchasers of MHFA-financed units generally are required to make larger downpayments than purchasers of HOP units.

- MHFA-financed units generally can be sold for higher sales prices than HOP-assisted units.

- Generally, the sales prices of MHFA units cannot exceed $110,000.

- MHFA-financed units serve a higher income level than HOP-financed units. In some areas, households earning up to $43,000 per year can be eligible for MHFA-financed units. (The income ceiling for MHFA-financed units is subject to change.)

Communities and developers who would like additional information on MHFA-financed units should contact MHFA's Office of Single Family Programs at (617-451-3480).

D. Market-Priced Units

Most HOP developments contain market-priced units as well as the required percentage of HOP-assisted units. As long as developers observe fair and equitable marketing practices, they may sell market-priced units to any households able to qualify financially. The prices of market units should be reasonable given the amenities offered and the prevailing market conditions. In reviewing a HOP proposal, MHP and MHFA staff will require appraisals and other market data in support of the market-rate prices.

E. Unit Sizes

Recommended minimum sizes have been established for units in HOP projects, both to ensure that affordable units will be adequate in size and to meet the underwriting standards used by mortgage insurers to qualify a project for mortgage financing.

All units must be at least 700 square feet in order to be considered for HOP funding. This minimum is an absolute requirement in order for a development to receive the approval of project underwriters. Additional minimum sizes have been established according to the number of bedrooms per unit:

Number of Bedrooms	Recommended Minimum Size
2	900 square feet
3	1,200 square feet
4	1,400 square feet

(Note that studios and one-bedroom units are not eligible for HOP assistance.)

The square footages listed above are minimum recommended sizes for livable units. Developers may decide to increase the square footage per unit in a particular development in order to market the project successfully.

In addition to meeting square footage minimums, developers must ensure that HOP projects meet the design standards established for the program by MHFA. The design standards are included in appendix A.

F. Sales Prices of HOP-assisted units

The maximum average price for all HOP-assisted units within a project is set according to bedroom size. The maximum average price for two-bedroom HOP-assisted units in condominiums is $75,000. A particular two-bedroom unit can sell for more than $75,000 -- up to a maximum of $95,000 -- but only if the average price of all two-bedroom units within the project is $75,000 or less. The maximum average sales price for three bedroom HOP-assisted units in condominiums is $85,000. A particular three-bedroom unit can sell for more than $85,000 -- up to a maximum of $95,000 -- but only if the average price of all three-bedroom units within the project is $85,000 or less.

Single family detached or fee-simple HOP-assisted units can be sold for up to $10,000 more per bedroom than condominium units, up to a maximum of $95,000, **if the homeowners' association fee is no more than $20 per month.** No HOP-assisted units can be sold for more than $95,000.

The average prices listed above are the **maximum** average prices that can be charged for HOP-assisted units. Communities and developers are encouraged to price units at averages lower than maximum, so that households earning as little as $20,000 may be served by the program.

The sales prices of HOP-assisted units and the income levels of buyers able to purchase at those prices will be evaluated during the HOP application review process. Applications that propose HOP units at prices significantly below the maximums allowed by the program will be favored during the review process. Applications that spread prices over a range -- in order to serve buyers with a range of incomes -- also will be favored.

The following examples demonstrate some of the many ways in which project price schedules can meet minimum program requirements:

Example #1: A condominium project contains 10 HOP-assisted two-bedroom units. Three are priced at $65,000; four at $75,000; and three at $85,000. Average price of the HOP-assisted two-bedroom units is $75,000. The project also contains ten HOP-assisted three-bedroom units. Five are priced at $75,000, and five are priced at $95,000. Average price of the HOP-assisted three-bedroom units is $85,000.

Example #2: A single family detached project contains 10 HOP-assisted two-bedroom units. Five are priced at $80,000; five are priced at $90,000. The average price of the HOP-assisted two-bedroom units is $85,000. The project also contains ten HOP-assisted three-bedroom units. Five are priced at $90,000 and five at $95,000 for an average three-bedroom sales price of $92,500.

Example #3: In addition to 10 HOP-assisted three-bedroom units priced at $80,000 and $90,000, a condominium project contains 10 HOP-assisted two-bedroom units. Two are priced at $55,000; two at $65,000; two at $75,000; two at $85,000; and two at $95,000. Average price of the HOP-assisted two-bedroom units is $75,000. MHP strongly encourages HOP prices to be spread over a range.

Assume that example #3 is a single family detached rather than a condominium project, with the same price structure. Assume that the HOP-assisted mortgages carry an initial interest rate of 5.65%. If so, the income levels served by the two-bedroom homes might be as follows:

Price	Income Group Served
$55,000	$17,300 - $20,500
$65,000	$20,500 - $23,600
$75,000	$23,600 - $26,800
$85,000	$26,800 - $29,900
$95,000	$29,900 - $32,900

With two-bedroom units priced according to the schedule above, the project could serve a continuous income group from $17,300 to $32,900.

The ceiling price for market units within a HOP project is not fixed by the program guidelines. However, the market prices will be evaluated for feasibility as part of the staff review process. The developer and the community will be expected to present documentation in support of the prices established for the market units.

G. Deed Restrictions

HOP-assisted units are an especially valuable housing resource, since they often are available for purchase at 15% to 50% less than appraised value. The state plays a significant role in creating the affordability of HOP units, and the state has an interest in preserving that affordability beyond initial sale to future resales. The initial buyer of a HOP unit benefits by purchasing a home for 15% to 50% below its appraised value. In order to make a comparable discount available to the next buyer of the same unit, MHP

uses several legal mechanisms to restrict the resale price of HOP units. Re-sale restrictions are designed to allow the initial buyer to realize a reasonable level of appreciation on his/her investment while preserving the affordability of the unit for the new buyer.

To allow appreciation while preserving affordability, HOP uses the following legal mechanisms:

- o Re-sale deed restrictions: Any HOP-assisted unit initially selling for less than 85% of its appraised value will have its subsequent resale price limited by the same percentage of cost-to-value. The resale price is limited by this formula in order to ensure the relative affordability of the particular unit in the marketplace. For units selling at 85% to 100% of their appraised value, MHP will waive the resale restriction at the request of the community and the developer. However, HOP-assisted units in comprehensive permit projects must carry deed restrictions regardless of the ratio of HOP price to appraised value.

Example: If a HOP unit appraised at $100,000 initially sells at $75,000, it has sold for 75% of its appraised value. If the appraised value of the unit at the time of resale has increased to $150,000, the unit must be sold to an eligible homebuyer for no more than $112,500 -- or 75% of $150,000. If no eligible buyer can be found within a set period of time, the unit may be sold to any buyer at any price, with any "windfall" profit generated by a sales price higher than $112,500 being returned to MHP.

- o Right of first refusal: When the buyer of a deed-restricted unit decides to sell the unit, he or she must notify MHP. MHP and its parent agency, EOCD, are then allowed a set period of time to find a new qualified purchaser for the unit at a price determined by the formula set forth above. MHP/EOCD's right of first refusal is embodied in the loan documents executed by the buyer at the time of purchase.

- o Repayment of HOP subsidy: A second mortgage loan is used to secure the HOP subsidy which reduces the initial interest rate on all HOP-assisted units. No interest on this loan is charged to the borrower, and no payments are required on the loan until the time of resale. Upon resale, the lesser of the actual subsidy used or 20% of the allowable appreciation must be repaid to MHP. "Allowable appreciation" is determined by a formula set forth in the HOP loan closing documents and tied to the discounted initial sales price of the unit.

A standard set of legal documents for HOP loan closings has been developed by MHP and MHFA. These documents must be used by all HOP buyers. Modifications to the standard HOP loan closing documents will not be accepted. A sample set of HOP loan closing documents can be obtained from MHP. The set consists of the following documents:

- o Second mortgage

- o Second mortgage note

- o Initial disclosure statement

- o Secondary disclosure statement

- o Deed rider

With some exceptions, developer of HOP condominium projects also are required to use a standard set of condominium documents (refer to page 34).

H. Income Ranges and Limits for HOP Buyers

The income level of each HOP buyer should not exceed 80%-of-median income for the area served by the project. In addition, each HOP project should serve qualified first-time buyers with a **range** of incomes.

There are several ways for HOP developers to achieve both these income goals. Developers should:

- o spread the sales prices of HOP units over a range;

- o establish a target income range for each different sales price;

- o verify that the income of each HOP buyer will be no greater than 80%-of-median for the area in which the project is located.

For example, assume that a HOP condominium project in the Boston metropolitan area includes 10 three-bedroom HOP units. The table below illustrates one way to spread the three-bedroom prices and establish an income range for each different price, thus achieving the overall goal of serving buyers with a range of incomes. At the same time, the HOP buyers in this project have incomes no greater than 80%-of-median for the Boston area.

Number of HOP units	HOP sales price	Target income group
2	$70,000	$24,656 - $27,122
2	$75,000	$26,132 - $28,745
2	$80,000	$27,607 - $30,367
2	$85,000	$29,083 - $31,991
2	$90,000	$30,558 - $33,613

In the example above, the average sales price of the three-bedroom HOP units is $80,000 -- well below the HOP maximum of $85,000 for three-bedroom condominium units.

The upper income limit for each different sales price in the table above is approximately 10% to 13% higher than the minimum qualifying income, as determined by standard underwriting criteria. By adding at least 10% to the minimum qualifying income, the developer opens up a "marketing window" for each sales price.

In the metropolitan Boston area, 80%-of-median income currently is $34,000. The income of all HOP buyers in a Boston metropolitan area project should be $34,000 or less. Outside Boston metropolitan area, 80%-of-median currently is $32,960. The income of HOP buyers in projects outside the Boston metropolitan area should be $32,960 or less. Since the 80%-of-median standard varies from time to time, developers should contact MHP or MHFA staff to verify the current standard.

The table on the previous page is one example of how a developer can spread HOP prices and achieve HOP income goals. There are many other ways for developers to achieve these goals. In general, communities and developers should work with MHP and MHFA staff to decide on the most effective way to achieve the program's income goals in a particular HOP project.

I. Downpayments and Closing Costs

Buyers of all HOP-assisted units should anticipate paying at least 5% of the price of the home as a downpayment. Buyers also will be responsible for paying all associated closing costs -- an additional 4% to 5%. Typically, these requirements will bring the total cash needed at closing to at least 9% to 10% of the purchase price. However, some buyers may be able to qualify for closing costs assistance through the new Buyers Assistance Program (BAP). Buyers purchasing HOP units will be eligible for BAP if they meet the following criteria:

- o their incomes are less than 80% of median income;
- o they have accumulated the 5% downpayment (up to half of the downpayment may be in the form of a gift or grant); and
- o they do not have the additional assets required to cover closing costs.

Additional information on BAP is available from the MHFA Office of Single Family Programs (617-451-3480).

SECTION 7. PROJECT STANDARDS FOR DEVELOPERS AND COMMUNITIES

A. Size and Density of HOP Projects

The standards for size and density of HOP developments set forth in this section are guidelines rather than absolute limits on projects. While developers may submit projects that do not conform to these guidelines, they do so at their own risk. Projects that do not conform to suggested program standards will undergo an additional level of review and, in all likelihood, will be rejected.

(a) Number of Units

Developments with at least 25 units and not more than 175 units will undergo normal HOP project review. Projects with fewer than 25 units may be eligible for Small Builders Set Aside funding (see page 43). Projects with more than 175 units will receive additional scrutiny as to feasibility and appropriateness.

b) Density Relief

Many HOP developers will seek an increase in the density allowed on a particular site through re-zoning, a special permit, or a comprehensive permit. The density relief requested by the developer should be reasonable given the general development pattern for the area contiguous to the project site. The area contiguous to the site should be considered the area within one-half mile of the site.

In general, homeownership proposals should be no greater than 8 units per acre. However, based on the development pattern in the area contiguous to the site, a much lower level of density may be appropriate. In the HOP application, the developer must make the case that the density proposed is reasonable given:

1) the development pattern in the surrounding area;

2) the density levels of other comparable projects approved in the municipality; and

3) the particular characteristics of the proposed site.

o Community-Supported Projects: Although homeownership proposals generally should have densities no greater than 8 units per acre, if the chief elected official and the local housing partnership are willing to support a project with density greater than 8 units per acre, up to a maximum of 12 units per acre, MHP and MHFA will accept such applications. However, there is no guarantee that projects of a density between 8 and 12 units per acre will be awarded funding.

In limited circumstances, MHP and MHFA will accept applications for projects of density greater than 12 units per acre. Such applications will be accepted only if the chief elected official and the local housing partnership support the application.

Applications with density levels greater than 12 units per acre will undergo intensive review. There is no guarantee that such applications will be approved for funding.

- o Developer-only projects: In the absence of community support, the density level of a HOP project cannot exceed 8 units per acre, unless the developer can demonstrate that the municipality previously has approved homeownership projects of comparable scale and density on similar sites. If the developer is able to make that case, MHP and MHFA will accept the application for funding consideration. However, there is no guarantee that the project will be awarded funding.

B. Land Costs on Development Pro Formas

The land value carried as the acquisition cost line item on a HOP development pro forma occasionally has created controversy between the community and the developer. To bring uniformity to the treatment of acquisition costs on HOP development pro formas, MHP and MHFA have developed the following policy regarding land value in HOP projects:

On HOP development pro formas, the acquisition cost line item must be the lower of either:

(a) value under pre-existing zoning; or
(b) last arm's length transaction (if within 3 years)

plus reasonable carrying costs.

- o Pre-existing zoning is defined as the zoning in place at the earlier of: execution of an option agreement or a purchase and sale agreement (P & S); or preliminary developer designation.

- o Last arm's length transaction is defined as the last arm's length transaction within 3 years of the project's first application to the state. All developers will be required to provide a certification of the last arm's length transaction.

- o Reasonable carrying costs, related to the land including interest, taxes, insurance, and the costs related to option agreements. If a building or improvement is located on the land, MHP and MHFA will recognize reasonable maintenance costs, such as security, utilities, and property maintenance. However, total allowable land value, including carrying and maintenance costs, cannot exceed the appraised value under "final" zoning (i.e., the zoning under which the project will be built).

Developers may choose to pay more for the land than the value based on pre-existing zoning. Any such "excess land costs" will be paid at the developer's own expense, and should be shown on the pro forma as "profit".

HOP developers will be required to submit an independent third-party appraisal, based on pre-existing zoning, as part of the site/project eligibility application. The land cost value will be independently confirmed by MHFA prior to funding commitment.

Exceptions to the above policy will be considered on a case by case basis only for projects that have secured a comprehensive permit or final rezoning prior to November 15, 1989.

C. Level of Profitability

The Massachusetts Housing Partnership does not specify a maximum level of profitability for HOP projects. Communities are encouraged to negotiate with developers to obtain the highest level of affordability while allowing for project feasibility. A developer might reasonably argue that a 15% level of profit (pre-tax, as a percentage of total costs) is necessary for a particular HOP project to be financially feasible. A higher profit level may be necessary for a project involving substantial risk or uncertainty. But a lower level of profit may be appropriate and feasible for a project involving little risk.

To a large degree, an accurate evaluation of the profit level requires a careful analysis of the project pro forma and an examination of such factors as:

- the degree to which the projected land costs conform to HOP standards for land value on development pro formas (see preceding section for further information);
- the degree to which the pro forma includes adequate reserves for construction cost overruns and other contingencies;
- the expected marketability of the market units, as priced;
- the assumptions in the pro forma as to how quickly the units will be sold;
- other issues affecting the relative risk involved in the project.

Although profit levels will vary from project to project, developers who submit applications showing less than 15% profit-plus-developer's-fee may be asked to post additional security to ensure construction completion and project sell-out.

Applications proposing greater than 25% profit-plus-developer's-fee will receive additional scrutiny during the review process. Projects with higher levels of profitability should include substantial levels of affordability. Local housing partnerships and municipal officials are encouraged to negotiate for maximum affordability within the constraints of acceptable density and improvements requested or required by the town.

SECTION 8. AVAILABLE FINANCING FOR HOP-ASSISTED UNITS

A. HOP Subsidies and MHFA Mortgages

The primary type of assistance provided through HOP is below-cost mortgage financing for purchasers of the affordable units. HOP-assisted units receive mortgage financing assistance in two ways. First, the mortgage itself is provided through MHFA at a rate below conventional rates. The below-market rate available through MHFA currently is 8.5% for a fixed-rate loan. Although the rate may vary according to the particular tax-exempt rate in effect when a commitment is made, it generally ranges from 1% to 3% below conventional rates.

The second form of assistance is a subsidy from the Massachusetts Housing Partnership to further buy down the already-reduced mortgage interest rate. Provided in the form of a second mortgage, this subsidy lowers the initial rate of an MHFA mortgage by an additional 3%. Currently, available mortgage financing for HOP-assisted units is as low as 5.5% initially. The initial rate increases gradually over a ten-year period as noted below.

B. HOP Subsidy Structure

The subsidy provided by the MHP for HOP-assisted units is in the form of an interest-free loan to the borrower, secured by a second mortgage, to buy down the initial interest rate of the buyer's first mortgage. The HOP subsidy lowers the initial interest rate of the first mortgage by as much as 3% initially. The subsidy gradually decreases over time until the mortgage interest rate reaches the actual rate of the MHFA loan at the time the loan was closed. The gradual increase in rate is designed both to minimize "payment shock" to the borrower and to keep pace with presumed increases in the borrower's income. An example of the subsidy structure is as follows:

Year of Mortgage	First Mortgage Interest Rate	Rate Actually Paid by Borrower
1	8.65%	5.65%
2	8.65%	5.65%
3	8.65%	5.65%
4	8.65%	5.65%
5	8.65%	5.65%
6	8.65%	6.65%
7	8.65%	6.65%
8	8.65%	7.65%
9	8.65%	7.65%
10-30	8.65%	8.65%

The benefit of the subsidy to the homebuyer is that monthly payments are significantly lower during the early years of the mortgage term. No repayment of the subsidy to MHP is required until the unit is resold or refinanced, at which point a portion or all of the total subsidy must be repaid. The formula for determining the amount to be repaid is described in the section of these guidelines on deed restrictions. The estimated value of the HOP subsidy is approximately $13,000 for an average mortgage.

C. Possible Private Financing for HOP Projects

It is generally assumed that mortgage financing available through HOP will be provided through MHFA because of the below-market, tax-exempt-rate mortgages the agency can provide. In addition, MHFA is able to provide valuable technical assistance and administrative services to developers and communities. However, it is conceivable that, in some circumstances, the Massachusetts Housing Partnership would consider providing interest write-downs under the "HOP-assisted" category on conventional financing. In order for MHP to consider a write-down based on conventional financing, the developer would have to demonstrate that the proposed financing would be competitive with mortgages being offered at the same time through MHFA. The developer also would have to demonstrate the conventional lender's ability to administer the HOP subsidy funds through escrow accounts.

Under some circumstances, the Homeownership Opportunity Program also would accept applications from developers seeking to replace both the HOP interest reduction subsidy and MHFA below-market financing with comparable private financing. HOP would accept proposals for privately-subsidized projects if such proposals met all existing requirements of the Homeownership Opportunity Program. Developers interested in pursuing private financing for HOP projects should prepare detailed proposals for review by the Massachusetts Housing Partnership.

SECTION 9. SELECTING HOP BUYERS: LOTTERIES, AFFIRMATIVE ACTION, AND LOCAL PREFERENCE

Because the demand for HOP units still outstrips the supply, MHP and MHFA have developed a selection process for HOP buyers that emphasizes equal opportunity and fairness. The selection process involves several steps.

First, the community and/or developer sponsoring a HOP project is required to submit an affirmative fair marketing plan as part of the HOP funding application. The plan must conform to standards established by MHP and MHFA and must describe how the HOP units will be advertised and marketed, with special emphasis on steps to be taken to provide information to minority groups. Each community and/or developer must establish specific goals for minority purchasers of HOP units. The minority participation goal shall be the greater of the percentage of minorities in the community <u>or</u> in the regional planning district in which the community is located.

The second step in the buyer selection process is the determination of local preference. Once the community and/or developer has submitted an acceptable affirmative marketing plan including appropriate minority goals for the development, MHP may allow a certain percentage of the affordable units to be reserved for local residents. MHP will permit local preference only in projects that the community has supported consistently and over time. The level of local preference will always be subordinate to the affirmative action goals for the project, and, in general, will be approved at 60%. Only if a community clearly demonstrates unusual contributions to and support for a project will MHP consider granting a higher percentage of local preference. Even in these instances, 70% will be the maximum.

A community seeking a set-aside of HOP units for local preference must make a formal proposal to MHP describing the basis for its request. MHP will decide the degree of local preference in direct relation to the commitments the community has made to the project. In determining the degree of local preference to approve, MHP will evaluate the following:

- the community's direct contributions to the project (land donations, expedited permitting, fee waivers, staff time, and so on); and

- the consistency and duration of community support for the project.

Specific categories of local preference may be established by the community and the developer, with the approval of MHP, and can include year-round residency and local employment.

The third step in the selection process for HOP buyers is the lottery. MHP and MHFA require selection of HOP buyers by lottery because the process is fair, open, and equitable. Typically, the lottery process is managed either by the community or by the developer. Unless the community is willing to pay for the lottery process, the developer will be expected to absorb the expense. The specific nature of the lottery process may be established by the community and developer with the approval of MHP and MHFA.

Before holding the lottery, the community or the developer must pre-screen applicants to determine that they:

- are income-eligible to purchase a HOP-assisted unit;

- o qualify as first-time homebuyers (i.e., have never owned a home or have not owned a home as a principal residence for three prior years);

- o have sufficient resources to meet downpayment and closing costs;

- o can support the carrying costs required for a specific unit.

The pre-screening process, to be paid for by the developer or the community, will be carried out by a "certifying agent" approved by MHP. The MHP will work with the developer and the community to determine who should fill the role of certifying agent. Eligible entities are the community, the developer, or a contracted third party.

The two most basic eligibility standards for all HOP buyers are income level and first-time homebuyer status. The certifying agent should advise prospective homebuyers that:

- o They will have to make a downpayment of at least 5% of the purchase price of the home, although half of the downpayment may be a gift from a relative.

- o They will have to pay the closing costs associated with their loan (typically, an additional 4%-5% of the price of the unit), unless they are eligible for and approved for participation in the Buyers Assistance Program (BAP).

- o Their incomes, credit ratings, and employment histories will have to meet the underwriting standards for the program.

After a pre-screened HOP buyer has been selected in the lottery process, the buyer will be referred to the mortgage lender assigned by MHFA to originate the below-market-rate first mortgage for eventual purchase by MHFA. The originating lender will require qualifying documentation from the HOP buyer. When the documentation is complete, the lender will forward all materials to MHFA and MHP. MHP will prepare the second mortgage documents which secure the interest subsidy write-down and will schedule the loan closings.

SECTION 10. COMPREHENSIVE PERMITS AND HOP

A. The Comprehensive Permit Process

Since its passage in 1969, the comprehensive permit statute (Chapter 774 of the Acts of 1969, Ch. 40B, MGL; also known as the "Anti-Snob Zoning Law") has proved to be an effective tool in promoting the development of affordable housing throughout the Commonwealth.

Chapter 774 was enacted to allow the production of housing for low and moderate income people throughout the state. It allows communities and developers to use the comprehensive permit process through which all the approvals necessary for a development to begin construction are granted in one permit. In communities where less than 10% of the housing stock is considered subsidized, a developer can appeal the rejection or conditional approval of a comprehensive permit application by the local zoning board of appeals to the state Housing Appeals Committee.

The comprehensive permit process places a heavy emphasis on local negotiations to determine the appropriate type of development for a specific city/town. It ensures that all local boards and offices are given an opportunity to comment on the project and allows local residents to raise specific concerns. The developer is expected to address all legitimate planning concerns raised by the community at this level of the review and to negotiate in good faith on these issues so that an acceptable local resolution may be achieved.

The Homeownership Opportunity Program has been designed specifically as a "subsidizing" program whose developers are considered "Limited Dividend Organizations" under the terms of Chapter 774. Therefore, although it is not necessary for HOP developers to seek comprehensive permits, it is possible for them to use comprehensive permits to construct HOP projects.

Some HOP developers choose to seek comprehensive permits because of the relief from local zoning a comprehensive permit allows. Developers seeking comprehensive permits for HOP projects should note the following restrictions on such projects:

- A developer seeking a comprehensive permit must first submit a full site/project eligibility application to MHFA. If MHFA approves the site/project eligibility application, the developer may submit a comprehensive permit application to the local zoning board of appeals.

- As of November 15, 1989, developers seeking HOP funding for comprehensive permit projects must have obtained the permit prior to submitting the HOP funding application.

- All HOP-assisted units within a project constructed with a comprehensive permit must carry resale restrictions to ensure their continued affordability to low and moderate income families. Deed restrictions must be placed on these units even if their sales prices exceed 85% of appraised value. All such deed-restricted HOP-assisted units may be counted as subsidized units under the Chapter 774 statute.

The local zoning board of appeals should not begin the comprehensive permit hearing process for a HOP project until the developer submits a project eligibility letter from MHFA stating that the site and proposal are eligible to be considered for funding through HOP. Before issuing a project

eligibility letter, MHFA will solicit comments from the community and the local housing partnership (if one exists) to ensure that their concerns are communicated to the developer. The developer may be required to address such concerns as a condition of MHFA's determination of project eligibility.

Further information on the use of the Homeownership Opportunity Program in conjunction with the comprehensive permit statute may be found in the regulations governing HOP (Section 16 of these guidelines). Technical assistance and/or funds to assist communities in evaluating projects seeking comprehensive permit approval are available through MHP. Call (617) 727-7824 for additional information and for publications on the Chapter 774 process.

SECTION 11. AFFIRMATIVE ACTION AND THE DEVELOPMENT TEAM

HOP project sponsors should address the following affirmative action issues in their funding applications:

- o Inclusion of minorities and women as members of the development team in such categories as developer, co-developer, general contractor, and sub-contractor. Developers are also encouraged to include minorities and women as architects, engineers, attorneys, and marketing agents. At least 51% of a firm must be minority or women-owned before an application will receive points in this category.

Each application for HOP funding must include a plan outlining how the development team will include minority and women-owned businesses in the development and construction process.

Each HOP application also must address the development team's track record in affirmative action, including:

(a) Minority/female participation in the development process on previous projects, as indicated by the use of minority/female businesses and by the employment of minorities and women in the work force.

(b) Minority occupancy in housing units fully or partially owned by the developer.

(c) Employment profile by race/ethnic status and sex of all employees of the development team.

SECTION 12. AVAILABILITY OF OTHER DEVELOPMENT FUNDS

The resources currently authorized for commitment through the Homeownership Opportunity Program (HOP) total $ 240 million -- $40 million in interest subsidy funding through the Massachusetts Housing Partnership and approximately $200 million in MHFA mortgage financing. It is projected that approximately 3,000 HOP-assisted units and 9,000 additional units can be developed with these resources. To date, 1,900 HOP units and 4,100 additional units are in the HOP pipeline.

In addition to these funds, other state programs are available to assist in the creation of affordable housing through HOP. Three programs are outlined briefly below:

(a) Municipal Advance Program (MAP). The Municipal Advance Program provides preliminary project development planning grants to cities and towns participating in the development of HOP projects. MAP funds are provided in the form of grants or "soft" loans to assist communities in analyzing either full-scale projects or particular aspects of projects. MAP applications should reference a specific development or site. MAP grants range in amount to a maximum of $30,000.

(b) Community Economic Development Assistance Corporation (CEDAC). Non-profit organizations participating in HOP projects are eligible for a special program of technical assistance resources provided through CEDAC. These funds are provided as loans and may be used for general planning or development analysis activities, up-front development costs, and site option and acquisition. Loans available through this program range from $10,000 to $75,000.

(c) Community Development Action Grant (CDAG). Development funds can be provided through the state CDAG program to underwrite the cost of infrastructure work normally borne by the developer. However, since CDAG funding currently is very limited, developers and communities are encouraged to seek other ways of financing infrastructure improvements. When available, grants to projects are limited to a maximum of $10,000 per **affordable** unit, with a per-project maximum amount of $500,000. CDAG applications must be submitted by a community, not a developer. Before preparing a CDAG application, a community should contact EOCD to determine whether CDAG funding is available.

SECTION 13. SUPPLEMENTAL PROGRAM ISSUES

A. Concentration of MHFA Financing

Generally, no HOP project may require more than $5 million in mortgage financing from MHFA (i.e., it can include no more than approximately 85 HOP-assisted units or units requiring other forms of MHFA assistance). The amount of MHFA mortgage financing to be committed to a project is computed on the basis of 95% mortgages for all HOP-assisted units in the project.

B. Construction Financing

At this time, construction financing is not available directly through HOP. MHFA currently is exploring the possibility of providing this service. If construction financing through MHFA becomes an option at a later date, all program participants will be notified. Until such time, developers will be required to secure construction financing on their own from conventional sources.

C. Phasing

Developers should plan to phase projects larger than 24 units. An application for a phased project should clearly identify the number of units to be built during each phase and the overall development schedule.

D. Environmental Issues

While some environmental issues requiring detailed study and investigation can be resolved relatively late in the development process, the developer should address other environmental issues during the site planning and design stages of a project. Otherwise, the processing of such issues could lead to unanticipated delays and costs. Issues that should be addressed early in the process, at relatively low cost, include historic preservation and the potential presence on site of archaeological resources, endangered species, farmland, wetlands and flood plains, and certain hazards. The developer can resolve some of these concerns through official correspondence with state agencies. Other concerns can be addressed through contact with local officials and careful inspection of the proposed site and surrounding area.

E. Condominium or Homeowners' Association Fees

HOP has established a financing structure intended to produce housing for purchase by low and moderate income households. This structure can be dramatically altered by the inclusion of unacceptably high condominium or homeowners' association fees. All homeowners' association fees, with the exception of unit utility charges, are included as part of the underwriting standards for homebuyer mortgage qualification. Fees should be realistic in relation to the services included and should not decrease the affordability of a HOP-assisted unit. If MHFA determines that the proposed fees are unacceptably low, thus creating the likelihood of significant increases in

later years, the developer will be required to recalculate to an acceptable level. Developers who propose high condominium fees may be required to lower their HOP sales prices to ensure that units will be affordable to the households the program intends to serve.

In some fee simple HOP projects, a homeowners' association exists to cover the costs of maintaining a private road. In such cases, if the association fee is $20 per month or less, and if MHFA determines that that amount is sufficient to cover maintenance, the developer will be permitted to market the HOP units at single family, rather than condominium, sales prices. (See pages 16 - 17 for information on the HOP price structure for single family homes.) If the homeowners' association fee is greater than $20 per month, the developer will be required to conform to program standards for condominium sales.

F. Investor-Owned Units

Typically, no more than 20% of the total units in any HOP development may be investor-owned, with no more than 10% owned by a single investor. These limits are imposed on the program by the mortgage insurance industry and the secondary mortgage market. If developers do not comply with these limits, their projects will not be eligible for HOP assistance. For the purposes of mortgage underwriting, any units sold to the local housing authority are considered to be investor-owned.

G. Commercial Space

No more than 10% of any HOP development may be used for commercial or office space. This percentage is measured both in square footage and in relation to total units. The requirement is imposed to maintain the residential character of any development using HOP financing.

H. Continuing Residency

Lenders participating in HOP will routinely verify that the owners of affordable units are still living in their units and have not rented them to tenants. If a lender determines that a HOP unit owner has violated mortgage restrictions by renting the unit to a tenant, the lender will terminate the HOP mortgage. The HOP owner will immediately have to repay all HOP subsidy to the program. Any deed restrictions on the resale of the unit will remain in effect.

I. Number of Units with Deed Restrictions in Condominium Projects

The HOP policy on deed restrictions is described elsewhere in these guidelines. However, there is a limit to the percentage of units in a project that can be deed restricted. If the project is a condominium, the limit is usually 40%. It is imposed so that projects can meet the Federal National Mortgage Association's secondary mortgage financing requirements. FNMA generally will not accept a condominium project which carries deed restrictions on more than 40% of the total units, unless the project is 100% deed-restricted. Although FNMA has granted exceptions to the deed-restriction limit, the process of securing exception status for a project

inevitably causes delay. Since projects with deed restrictions on 41% to 99% of the units currently are not acceptable by FNMA standards, such projects can only be considered for HOP financing if the developer is able to secure FNMA approval or is able to obtain a commitment from a portfolio lender willing to originate the first mortgage.

J. Condominium Documents

In addition to the standard HOP loan closing documents, MHFA has designed a set of standard condominium documents to be used for each condominium HOP development. If a developer chooses not to use the standard condominium documents, his/her attorney must submit a copy of the proposed alternate documents, along with a detailed breakdown indicating every difference between the alternative and the standard documents. MHFA will charge a fee to review proposed alternative documents.

K. Early Construction Starts

Construction on HOP projects **cannot begin** until MHP and the MHFA Board have fully approved HOP financing applications. **Early construction starts are <u>not</u> permitted.**

SECTION 14. WAIVERS TO THESE GUIDELINES

Under certain limited circumstances, the Secretary of the Executive Office of Communities and Development (EOCD) may waive any or all of the provisions of these guidelines, based on a determination that such a waiver is reasonable and consistent with the intent of the Homeownership Opportunity Program.

In some cases, the Secretary may determine that a proposed HOP project is eligible to apply even though it contains less than the minimum levels of affordability described in these guidelines. Such a determination will be made only when there is an explicit local policy that provides for a lower level of affordability, or when other circumstances would warrant a lower affordability mix. Examples of such circumstances include:

- a local inclusionary zoning ordinance that mandates a lower level of affordability for every residential development of a certain type that takes place in the community.
- a local density bonus by-law or zoning overlay district allowing more units to be built on a piece of land than would normally be allowed, as long as a certain percentage of units is affordable.
- a project sponsored by a developer who already has adequately zoned land, needs no other public subsidy, and offers a number of units to be sold as affordable. While allowed, such projects will be carefully scrutinized before being approved to ensure that the maximum number of affordable units has been provided and that all affordable units comply with the requirements of HOP.

SECTION 15. APPLICATION PROCEDURES

This section describes the HOP application process and the criteria used to evaluate proposals for HOP financing. This section should be used in conjunction with the HOP funding application package, available separately.

A. Overview of the Application Process

Between November 1987 and March 1989, MHP and MHFA sponsored two competitions for the purpose of selecting HOP applications for funding. In 1987 -- the year that MHP and MHFA decided to sponsor HOP competitions -- the real estate market in Massachusetts was remarkably strong. Real estates prices were escalating by as much as 35% in a year, and real estate was widely perceived by lenders, developers, and buyers as an excellent investment.

The Homeownership Opportunity Program was created in part because rapidly-escalating prices prevented so many first-time buyers from being able to purchase homes. Because so many developers and communities were interested in sponsoring HOP projects, MHP and MHFA decided to institute a competitive format for allocating limited state resources.

While the need for affordable homeownership in Massachusetts remains substantial, the market has changed significantly since 1986, 1987, and 1988. The current market -- especially for condominium units -- is slow in many areas of the state. Lenders are extremely cautious about providing financing for new condominium projects, and developers are experiencing longer sell-out periods for projects than they had anticipated.

Potential HOP developers are as concerned as other developers about market conditions and the likelihood of obtaining construction financing. No developer wishes to undertake a project unless he or she believes it ultimately will be successful, and MHP and MHFA are willing to fund only those projects that can be successfully developed. Under current market conditions, it appears that the development process will be more challenging and that fewer projects will be feasible.

For these reasons, MHP and MHFA have changed the format for HOP applications. As of November 15, 1989, developers seeking HOP funding may submit applications to MHP at such time as they believe their projects are ready. Applications will still be evaluated according to stringent criteria, but developers will not have to wait for a funding competition to submit applications.

MHP and MHFA want developers and communities to work closely with staff at both agencies during all stages of the development process to structure feasible applications which meet all HOP funding requirements. To ensure early contact with staff, all developers will be required to submit a site/project eligibility application to MHFA. (In the past, only developers seeking comprehensive permits were required to submit site/project eligibility applications.) MHP and MHFA staff will evaluate the site/project eligibility application and will identify in writing issues which could prevent the project from obtaining HOP funding approval. Staff also will be available to work with developers who choose to prepare HOP funding applications.

HOP applications will be selected for funding only if they meet all the criteria set forth in the remainder of this section. By working closely with MHP and MHFA staff, the developer should be able to determine whether a project has a good chance of being selected prior to preparation of a full application. The application fee is non-refundable.

MHP and MHFA have made an additional change in the application process. Since 1987, the HOP funding process has required developers to submit two funding applications -- an initial application for HOP subsidy approval which, if approved, was followed by a second application for mortgage financing. As of November 15, 1989, developers will be required to submit only one funding application for both HOP subsidy and MHFA mortgage financing. If the submission is full and complete, the project sponsor will receive a letter of approval or denial of HOP subsidy funding from the Secretary of Communities and Development approximately 75 days after the full and complete submission. If the application is accepted for funding, the MHFA board will act upon the mortgage financing request contained in the approved application at the board meeting following the Secretary's action.

The criteria which staff will use to evaluate HOP applications and to make recommendations to the Secretary of EOCD and the MHFA Board are set forth on the following pages. **Only projects meeting all criteria will be recommended for funding.**

B. HOP Application Fees

The Homeownership Opportunity Program has established the following schedule of fees for HOP applications:

- Site/Project Eligibility Application - A flat fee of $2,500 will be charged for all projects of 25 units or more. Projects with 24 or fewer units will be charged $50 per unit. **All HOP proposals must receive site/project eligibility approval prior to the submission of a HOP funding application.** HOP developers seeking comprehensive permits must obtain site/eligibility approval prior to submitting a comprehensive permit application to the local zoning board of appeals.

- HOP Funding Application - An application fee of $7 per $1,000 of MHFA mortgage financing requested will be charged, payable as follows:

  (a) $4 per $1,000 must be submitted with the funding application. This fee is non-refundable.

  (b) If funding is approved by MHP and MHFA, an additional $3 per $1,000 must be submitted.

  All checks must be made payable to MHFA.

C. Threshold Criteria for Funding

Before MHP and MHFA staff begin the full review of an application, they will determine whether the application meets threshold criteria. If an application does not meet all of the following threshold criteria, the review process will stop, and the application will be returned to the developer:

- The application must be complete.

- o The project must be fully permitted (with the exception of building permits). Construction financing must be in place. The developer must document his/her ability to proceed to construction within 120 days of receiving HOP funding approval.

- o The application must contain the expressed support of the community in the form of a signed letter from the chief elected official or documentation from the developer demonstrating sufficient efforts to obtain such support and to address all legitimate concerns raised by the community.

- o The application must include written support from the local housing partnership (if one exists), or documentation from the developer demonstrating sufficient efforts to obtain such support and to address all legitimate concerns raised by the partnership.

- o At least 30% of the units must be affordable with a unit mix consistent with program requirements.

- o Affordable units must be priced within the guidelines of the program.

- o 50% of the required minimum number of HOP and low-income rental units must contain at least three bedrooms.

- o The proposal must comply with the minimum construction standards established for HOP (included in the appendices to these guidelines).

An application must pass <u>all</u> threshold criteria before MHP and MHFA will evaluate it according to funding criteria.

D. Evaluation Criteria for Funding

All applications that meet threshold requirements will be evaluated and scored according to the criteria set forth in this section, with recommendations for funding made to the Secretary of EOCD and the MHFA Board. It is expected that staff recommendations will be made within 60 days of the submission of a full and complete application package. MHP and MHFA reserve the right to base final funding decisions in part on geographic distribution of projects.

Although HOP does not provide construction financing, all HOP funding applications are reviewed according to underwriting criteria consistent with the criteria used by construction lenders. Each section of the HOP funding application is evaluated according to certain criteria. Scoring minimums have been established for most sections of the application. If, at the end of the review period, an application receives a passing score in all sections, the total points will be tallied and measured against an established numerical minimum for funding. If the total points meet or exceed the minimum, the application will be recommended to the Secretary of EOCD and the MHFA Board for funding.

If an application receives a fail in any section, the final score will not be tallied, and the developer will be notified that the application has been rejected. MHP and MHFA staff will be available for subsequent discussions with the developer, who may be offered the opportunity to modify the application and submit it again.

Pass/fail thresholds within sections will change from time to time, as will the total minimum score required before a project can be recommended for funding.

All applications that pass threshold will be reviewed and evaluated by MHP and MHFA staff according to the following criteria:

I. Housing Need and Affordability (25 possible points) (Minimum necessary: 12 points) Factors to be evaluated include:

- The level of affordable housing need in the community in which the project will be located and the responsiveness of the proposal to that need.
- The percentage of affordable units proposed by the project (30% is the minimum acceptable percentage. Additional points will be awarded to applications proposing extra affordable units).
- The sales prices of the HOP units (favorable consideration will be given to projects that propose prices lower than program minimums).
- The percentage of affordable units with three or more bedrooms.
- The income levels to be served by the HOP units. HOP units should be priced to serve households at or below 80% of the median income for the area in which the project is located. Applications that serve a range of income levels will be given favorable consideration in this category.
- The construction type of the project. Single-family home construction and fee simple ownership typically result in lower ownership costs to the HOP buyer than condominium construction with condominium fees. As a result, single family and fee simple HOP proposals may have an advantage over comparable condominium projects.
- The level of public subsidies required to create the level of affordability contained in the proposal (i.e., is HOP the only subsidy required to achieve the proposed level of affordability?).

II. Local Support (25 possible points) (Minimum necessary: 15 points) Factors to be evaluated include:

- The level of written support for the project from the chief elected official and the local housing partnership.
- Whether a community has made direct contributions in support of the project, such as:

  (a) donations of land or cash.

  (b) donation of staff time.

  (c) expedited permitting.

- o In the absence of written support or contributions, the extent to which the developer has addressed the issues that have been raised by the community and/or the local housing partnership.

III. Site Evaluation (10 possible points) (Minimum necessary: 4 points)

The site proposed for development is evaluated to determine its suitability for housing, as well as how it compares to other areas in the community and other sites on which HOP developments have been built. Factors to be evaluated include:

- o The control of the site by the developer.
- o Desirability of the site in relation to the community and the intended uses of the development.
- o Environmental issues or soil/terrain concerns that may prohibit the project from being successfully completed.
- o Availability of water and sewer to the site. Local water and sewer need not be available, but a plan for providing these services must show that water and sewer service is attainable. (Note: HOP discourages the concept of "private water supplies" in a development which must also have on-site septic systems.)
- o Proximity of the site to community and commercial services, and how the site compares to other areas in the same municipality in this respect.
- o Accessibility of the site to various means of transportation.

IV. Design (10 possible points) (Minimum necessary: 4 points)

The proposed design of the HOP project is reviewed to ensure that a high quality of housing will be developed and that the proposed housing is consistent with the intent of the program and the type of site to be developed. In addition to determining whether the project meets the minimum design criteria of the program (see appendix A), the following factors are reviewed:

- o Organization of the units within the proposed building to ensure usefulness of the rooms and the layout of the units.
- o Design of the 3-bedroom units so that they are feasible for family living.
- o Layout of the site and the relationship of the buildings, parking, and amenities to the site itself and any developmental restrictions that might be present.

For further information on the specific type of units and features that are appropriate for HOP developments, refer to the MHFA Design Guidelines for Homeownership Proposals (see appendix A).

V. Feasibility (10 possible points) (Minimum necessary: 5 points)

The overall feasibility of the project is reviewed to determine whether it can be completed, given the known characteristics of the development. Specific items to be reviewed include:

- o Whether proposed construction costs are reasonable given the type of development proposed and the way in which it will be constructed.
- o Whether other proposed development costs listed in the pro forma are within the general parameters developed from other HOP projects.
- o Whether profit margin of the development is at least 15%. Profit margin is defined as the excess amount of sales minus total development costs, plus developer's fees.

VI. Team Experience (5 possible points) (Minimum necessary: 2 points)

The overall experience of the development team is evaluated to ensure that the project can be built by the team as currently structured. Generally, members should have a track record of successfully completing a project of similar scale to the proposed HOP project. The following factors will be evaluated:

- o Developer must have prior experience with a residential project consisting of a similar number of units by phase or total, and a construction loan of a roughly equivalent amount.
- o Contractor must have prior experience with residential developments consisting of a similar number of units by phase or total, and construction contracts of equivalent amounts.

To meet minimum requirements, applications must receive at least one point in each of the above categories.

VII. Marketability and Absorption (10 possible points) (Minimum necessary: 7.5 points)

The overall market in which this development will be sold is evaluated to determine whether the type of housing proposed is consistent with the demands of the marketplace and priced appropriately to sell within a reasonable time period. The market also will be evaluated to determine whether there are sufficient buyers able to purchase the proposed units. The following factors will be evaluated:

- o Values of the market rate units are within the acceptable ranges of comparable or competing units within the market area.
- o Types of units, amenities, and surrounding conditions of the development are appropriate given comparable/competing developments.
- o Current trends in the market area (particularly over the past 3-6 months) are indicative of the prices for the market units proposed.
- o Identification of the target buyers of the market rate units and how the design of the units relates to the typical needs and demands of these buyers.

VIII. Equal Opportunity (5 possible points)

The development team and its plans for the HOP development are reviewed to determine their consistency with HOP's intent to provide opportunities for the employment of minority and women-owned businesses. The following factors will be evaluated:

- o Make-up of the development team by race and sex.
- o Minority/women work force participation in the companies involved with the development team and minority/women business enterprise utilization during construction.
- o Stated affirmative fair marketing plan to achieve agreed-upon minority goal.

IX. Mortgage and Financing Strength (Pass/Fail)

A review is conducted of the principals of the development team, particularly the developer and general contractor, to ensure that there is adequate financial capacity to develop the proposed project and that there is no past history of problem developments that might preclude successful completion of the HOP. Factors to be evaluated include:

- o Separate reviews of the credit of the developer and the general contractor. An analysis will be performed to ensure that the current and past obligations of each party for the past 5 years are clear. Any slow payment history, particularly over the last 2 years, must be explained to the satisfaction of the agency.
- o Whether financial strength of the developers (borrowers) is sufficient to document adequate working capital to cover the difference between the total development costs of the project and the construction loan, allowing for phases.
- o Whether general contractor has a current asset ratio of 1:1 as well as working capital equivalent to 10% of the construction contract amount.

E. Small Builders Set-Aside Program

In April 1989, the Massachusetts Housing Partnership and the Massachusetts Housing Finance Agency announced the set-aside of up to $1 million in Homeownership Opportunity Program (HOP) subsidy financing to support small-scale projects. Financing is available on a first-come, first-serve basis -- as long as the set-aside resource lasts -- for projects satisfying all the eligibility criteria set forth below. The application process for the Small Builders Set-Aside is described below.

Eligibility Criteria for Small Builders Projects

Typically, projects will have to satisfy all the following criteria in order to qualify for HOP financing through the Small Builders Set-Aside:

- o The total project size is 24 units or less.
- o The project meets all standard HOP affordability criteria for pricing; income levels to be served; percentage of affordable units; etc.
- o The project meets all standard HOP criteria for financial feasibility; site suitability; appropriateness of design; quality of construction; marketability.
- o The project has the demonstrated support of the community in which it will be located in the form of sign-offs from the chief elected official and the local housing partnership.
- o The project sponsor has secured all necessary zoning approvals and applicable permits.
- o The project sponsor has obtained construction financing.

Process for Submitting Applications for Small Builders Financing

Sponsors of homeownership projects that appear to meet the eligibility criteria for set-aside funding should schedule meetings with MHP and MHFA staff to discuss their projects. Project sponsors should contact Lionel Julio, MHP HOP development analyst, to schedule project meetings. Mr. Julio can be reached at (617) 727-7824. MHP and MHFA will jointly conduct the project meetings and will assess the potential of each project with the sponsor. If a project appears to be eligible for set-aside consideration, the sponsor will be invited to submit a funding application. However, the invitation to submit an application is not a funding guarantee. A funding decision will be made only after MHP and MHFA have completed reviewing the application.

The non-refundable submission fee for all small builders applications is $7 per $1,000 of MHFA financing requested. The fee schedule is described on page 37. Checks should be made out to MHFA and submitted with eight full copies of the funding application to Lionel Julio at MHP (100 Cambridge Street; Room 1404; Boston, MA 02202).

The application review period for set-aside projects will be 45 days from receipt of the application at MHP. At the conclusion of the review period, the sponsor will be notified whether the project will be recommended to the Secretary of Communities and Development and the MHFA Board for funding. Projects recommended for funding typically will receive HOP financing commitments and mortgage financing commitments within 20 days of the recommendation.

SECTION 16. HOP PROGRAM REGULATIONS

760 CMR 37.00: MASSACHUSETTS HOUSING PARTNERSHIP HOMEOWNERSHIP PROGRAM

Section

37.01: Introduction

The Massachusetts Housing Partnership Fund has been established pursuant to St. 1985, c. 405, s. 35, in order to provide for the production of decent, safe and sanitary housing that is affordable to households within the Commonwealth which would not otherwise be able to purchase such housing. Towards this end, the Massachusetts Housing Partnership Fund Board was constituted along with the Massachusetts Housing Partnership Board to guide the design of affordable housing initiatives and the allocation of available resources to produce such housing. The Executive Office of Communities and Development has been designated by the MHP Fund Board as the primary administrative agency for the implementation of approved programs and for the distribution of funds provided through the MHP fund and other legislative appropriations.

The Homeownership Program (HOP) was developed as a major initiative of the Massachusetts Housing Partnership and the first state-funded program to address the issue of affordable housing on an ownership basis. Since its inception in 1986, response to the program from local communities and developers has been strong. Therefore, interim guidelines were designed to guide interested participants through the emerging structure of the HOP Program. As a result, a number of applications were submitted to the Department seeking to implement a HOP Development in accordance with those interim guidelines. Any HOP application submitted before the effective date of 760 CMR 37.00, but otherwise in compliance with the interim guidelines in effect at the date of its submission, will be considered to meet the requirements of the HOP Program and will be eligible to receive funds from the HOP Program, as well as from any other complementary development program. Those interim guidelines shall be in effect until HOP guidelines are issued pursuant to 760 CMR 37.00.

37.02: Definitions

Department means the Department of Community Affairs within the Executive Office of Communities and Development, as established and existing pursuant to M.G.L. Chapters 23B and 6A.

HOP Assisted Mortgage means a HOP Financed Mortgage on which a portion of the debt service will be paid by the Department on behalf of an eligible Low or Moderate Income Household.

HOP Development means a housing development as approved by the Department, under the HOP Program and in accordance with 760 CMR 37.06. The specific mix of ownership of the units within such a development will be specified from time to time by the Department.

HOP Financed Mortgage means a mortgage made or financed with proceeds provided by the MHFA, or other such public or private entity designated by the Department which is authorized to provide mortgage financing under the terms of the HOP Program to Low or Moderate Income Households.

37.02: continued

HOP Guidelines means any program documents issued pursuant to 760 CMR 37.00 by the Department or MHFA, and updated from time to time, which explain in further detail the HOP Program, how program funds may be obtained and utilized, and how HOP Developments may be implemented.

HOP means the homeownership program established pursuant to St. 1985, c. 405, s. 35 and 760 CMR 37.00 to assist Low or Moderate Income Households to acquire affordable homes.

HOP Unit means a housing unit within a HOP Development that is available for sale at a price and with mortgage financing such that it may be purchased by Low or Moderate Income Households without the expenditure of an excessive amount of income for housing, as determined by current mortgage lending practices. From time to time the Department or MHFA shall publish the permissible sales price limitations applicable to HOP Units.

Limited Dividend Organization means a partnership, corporation, cooperative corporation, or other entity approved by the Department that agrees to limit its return by building a Low or Moderate Income Housing Development and not distributing to its partners or owners more than a ten percent (10%) return on equity until the development, or the particular phase of the development involved in the HOP Program, has been completed, as determined by the Department.

Low or Moderate Income Housing Development means a HOP Development for which a comprehensive permit will be sought pursuant to M.G.L. Chapter 40B. The specific composition of the housing units within such a development will be specified from time to time by the Department and will be consistant with 760 CMR 37.10.

Low or Moderate Income Households means persons or families whose annual income is not adequate to enable them to purchase, operate and maintain decent, safe and sanitary housing without spending a greater portion of income than allowed in current mortgage lending practices. Of this group, persons or families who meet further income qualifications may be entitled to benefits as set out in the HOP Guidelines. Such benefits may include, but need not be limited to, HOP Assisted Mortgages or HOP Financed Mortgages. From time to time the Department and MHFA shall publish income limits to be used in determining eligibility as a Low or Moderate Income Household and the types of benefits that may be available to such households.

MHFA means the Massachusetts Housing Finance Agency established and existing pursuant to St. 1968, c. 708, as amended.

MHP means the Massachusetts Housing Partnership.

MHP Fund means the fund established pursuant to Chapter 405, Section 35 of the Acts of 1985 and providing resources to create affordable housing opportunities for Low or Moderate Income Households.

Market Unit means a housing unit in a HOP Development that is available for sale to a homebuyer, at market prices, without the benefit of a HOP Assisted Mortgage or HOP Financed Mortgage, and without any Re-sale Controls.

Re-sale Controls means the controls imposed on housing units purchased through HOP Assisted Mortgages or HOP Financed Mortgages within a HOP Development to ensure the continued affordability of those units to eligible homebuyers by limiting their re-sale in accordance with the standards of the HOP Program. These controls may include deed restrictions, subordinate mortgages, or other devices approved or required by the Department.

Secretary means the secretary of the Executive Office of Communities and Development.

37.03: Program Purpose and Objectives

The Homeownership Program (HOP) has been established as a joint effort between the Executive Office of Communities and Development and the Massachusetts Housing Finance Agency. Its purpose is to sponsor the creation or retention of affordable housing units through the use of public and private sector development incentives. This program has been designed to encourage the construction or purchase of new or existing housing units or the substantial renovation of previously unused or underutilized space for residential purposes, regardless of prior use, and to make these units available to people with the broadest possible range of incomes. In response to various housing markets and differing local needs, a wide range of housing types may be considered under the HOP Program; including, but not limited to single family attached or detached homes, condominiums, or cooperatives. Further, the Department's goal of producing housing that is affordable by Low or Moderate Income Households must be considered in conjunction with the social and economic benefits associated with housing developments which serve households with a variety of incomes.

The Department will design and/or assist in the utilization of financial, developmental, or regulatory incentives to ensure that a portion of the units available in any approved HOP Development are provided at a cost and in such a way that they are affordable to Low or Moderate Income Households. These incentives may include the use of available resources to reduce mortgage financing to eligible households, or otherwise reduce the price of the units to a point where they can be purchased by Low or Moderate Income Households. In those instances where funds are used to reduce the effective cost of available financing, such assistance may be required to be repaid to the MHP Fund or to EOCD so that additional affordable housing units can be produced.

37.04: Application Procedures

In order to supplement 760 CMR 37.00, the Department will issue, from time to time, guidelines that further describe the HOP Program. These HOP Guidelines will specify the procedures that are to be followed in order to obtain funds, the ways that funds may be utilized to produce affordable housing, and the minimum requirements that will have to be met in order for projects to be designated as HOP Developments. In accordance with these HOP Guidelines, the Department may publish a schedule of fees adequate to cover its reasonable administrative costs incurred in operating this program.

37.05: Eligible Applicants

It is the primary goal of the HOP Program to encourage communities to play an active role in organizing a local housing partnership, identifying their housing needs and taking specific steps to develop the type of housing that is appropriate to meet those needs. The HOP Program, therefore, has been designed to give priority consideration to applications that are submitted as collaborative (i.e. joint) efforts between the community and the proposed developer and will allocate its resources accordingly.

In addition to such applications, an application will also be considered if otherwise eligible in accordance with the HOP Guidelines and if it is submitted by:

(1) a community seeking a set-aside of funds for a HOP Development, but for which a development entity has not yet been selected;

(2) a developer that has secured the written support of the involved community for the project, but not its active participation in the program; or

(3) a developer who has not been successful in securing either the participation or the approval of the involved community for the proposed HOP Development, but otherwise has an eligible proposal and provided further that, in this case, the project meets the requirements of a Low or Moderate Income Housing Development as defined in 760 CMR 37.10.

In reviewing applications submitted under the HOP Program, the Secretary will take into consideration comments, whether in support or opposition, from

37.05: continued

relevant communities, Local Housing Partnerships, involved Boards and Commissions, and citizens prior to making a final determination as to funding the Project.

37.06: Eligible HOP Developments

Applications for HOP Developments shall be submitted by eligible applicants in accordance with the procedures developed for the HOP Program by the Department. HOP Developments may include a mix of both HOP Units and Market Units in a manner that is appropriate to ensure the economic and programmatic feasibility of the particular project. Factors which may determine the mix include:

(1) the character of the community and the development's relationship to that character;

(2) the level of other contributions that are being made to the development; and

(3) the goals of the HOP Program.

Since one of the primary goals of the HOP Program is to produce as many HOP Units as possible in each development for the lowest possible public cost, the Department shall from time to time specify the mix of HOP Units and Market Units contained in a HOP Development that will be required as minimum levels for participation under the HOP Program. At least 25% of the total number of units available shall be sold to eligible Low or Moderate Income Households and be financed by HOP Assisted Mortgages or HOP Financed Mortgages, or otherwise be affordable as determined by the Department. From time to time, the Department may allow a HOP development to be designated with fewer than 25% of its units being affordable. At such times, and supported by specific circumstances such as inclusionary zoning ordinances, the full specifications of such a development will be described in the HOP Guidelines.

In order to ensure the long term affordability of these units, their re-sale may be governed by Re-sale Controls which shall last for a period of forty (40) years from the time of the initial sale of the unit, or as may be otherwise specified by the Department with 760 CMR 37.08.

Additionally, the Department shall establish criteria for the review of applications submitted under the HOP Program to assist in determining which projects should receive funding. These criteria shall be fully described in the HOP Guidelines and shall, whenever possible, give priority consideration to projects that have the support of the community and local housing partnership, and contain the highest number of affordable units consistent with the other goals of the HOP Program.

37.07: Financing

In order to develop housing units that are available for sale to and affordable by Low or Moderate Income Households, the Department may institute a series of incentives that encourage the production of these units for such households. In addition to regulatory, design, planning, and development incentives, financial mechanisms may also be provided. These may include, but need not be limited to HOP Financed Mortgages and HOP Assisted Mortgages. Furthermore, any eligible household receiving a MHFA mortgage loan must comply with MHFA's requirements with respect to each loan. The specifics of these mortgages are:

(1) HOP Financed Mortgages. As part of an approved HOP Development, MHFA or any other lender approved by the Department shall cause mortgage loans to be issued to eligible Low or Moderate Income Households. Such HOP Financed Mortgages shall, generally, be consistent with MHFA mortgage lending criteria and be issued:

(a) for units that are priced within the applicable acquisition levels as determined by the Department;

37.07: continued

(b) to households that meet the income limits established by the Department and are bankable using current mortgage underwriting standards; and

(c) for a term that is consistent with the length of similar mortage loans issued by the MHFA.

(2) HOP Assisted Mortgages. Low or Moderate Income Households that are unable to satisfy the mortage underwriting standards applicable to a HOP Financed Mortgage and have incomes at or below the levels established from time to time by the Department, may be eligible to receive a HOP Assisted Mortgage. HOP Assisted Mortgages are HOP Financed Mortgages, where the effective cost to the borrowers will be reduced through subsidy payments made by the Department on behalf of the borrower. The subsidy amount will be secured by a second mortgage and shall be issued:

(a) for units that are priced within the applicable acquisition levels as determined by the Department;

(b) to households that meet the income limits established by the Department and are bankable using current mortgage lending criteria; and

(c) for a term that is consistent with the length of similar mortgages issued by MHFA.

Specific details relating to the applicability and use of HOP Financed Mortgages and HOP Assisted Mortgages shall be contained in the HOP Guidelines. Additionally, other financing mechanisms, other resources available from the MHP Fund, money from other development programs, or other local funds may be necessary in order to create a successful HOP Development. In such instances, where other Public funds are involved in the Project, it is expected that these funds will be employed to reduce the actual acquisition price of a HOP Unit and therby pass along these savings to the eligible Low or Moderate Income Household.

37.08: Re-sale Controls

All or a portion of the housing units created as part of a HOP Development and sold to eligible Low or Moderate Income Households shall have limitations governing their re-sale which must be satisfied before the property can be sold by its owner(s). The purpose of these limitations is to preserve the long.term affordability of the units and to ensure the continued availability of these units to Low or Moderate Income Households. Re-sale controls shall, generally, be limited to those units that:

(1) receive HOP Financed Mortgages or HOP Assisted Mortgages;

(2) are sold at prices significantly below their actual appraised market value; or

(3) as may be otherwise identified by the eligible applicant with the approval of the Department. Any controls designed to limit the re-sale of a HOP Unit shall be consistent with the HOP Guidelines.

All controls that are applied to a HOP Unit shall be based on an objective formula that is known to the homebuyer in advance of the purchase of that unit. Examples of possible re-sale controls are: imposing a percentage of appraised value on the unit at the time of initial sale and carrying that value through in subsequent re-sales; limiting an increase in value to a specified annual increase; or limiting an increase in value to a specific indicator. These Re-sale Controls shall last for a period of 40 years from the date of the initial sale of the unit. Any such controls effecting the re-sale of these units may be employed only with the expressed approval of the Department.

For certain units that are created as part of a Low or Moderate Income Housing Development additional Re-sale Controls may be imposed. These controls are intended to ensure that, to the maximum extent feasible and fair, those units are re-sold to Low or Moderate Income Households that would qualify for a HOP Assisted Mortgage. These additional controls shall, generally, extend for a period of 15 years from the date of initial sale of the unit and will, thereafter, revert to the standard set of Re-sale Controls existing for HOP Units for an additional 25 year period.

37.09: Buyer Selection

A plan setting forth, in detail, the efforts that will be utilized to market all HOP Units must be submitted by the developer and/or the community to the Department prior to the public offering of the units. This plan, subject to the approval of the Department and MHFA, shall:

(1) specify any special preferences that will be used to select potential homebuyers and the extent of those preferences;

(2) describe actions that will be taken to affirmatively market all units;

(3) describe an objective process for the selection of homebuyers for HOP Units ensuring open and equitable access for potential homebuyers; and

(4) allow for the timely sale of the units during a reasonable marketing period.

In addition to these general standards, communities may apply to have local residency preference in selecting purchasers as long as these preferences do not conflict with the affirmative fair marketing standards of the HOP Program. In instances where a local residency preference has been approved by the Department, there shall be no requirement limiting preference to residents who have lived in the community for any particular duration of time. Additionally, communities may use current or planned employment in the community as a factor in determining local preference.

Local marketing plans and buyer selection criteria applicable to each HOP Development must be approved by the Department and MHFA prior to the offering for sale of any HOP Units. Such plans and criteria must be in compliance with HOP Guidelines established for the HOP Program and should, generally, reflect the level of local contributions made to the project to increase the affordability of the HOP Units in determining the level of local preference to be permitted.

37.10: Low and Moderate Income Housing Developments

Pursuant to M.G.L. c. 40B, there may be certain instances when a housing development approved under the auspices of the HOP Program may be considered eligible for a comprehensive permit. In order for a HOP Development to be so eligible, it must also meet the requirements stated in the Low or Moderate Income Housing Development portion of 760 CMR 37.02 and otherwise consistent with 760 CMR 37.00 and M.G.L. c. 40B. At least 30% of the total number of units shall be made available to eligible Low and Moderate Income Households and be financed with HOP Assisted Mortgages, or made available for rental to Low Income Households, or otherwise be affordable to Low and Moderate Income Households as determined by the Department; in meeting this requirement, the Department may prescribe a minimum percentage of total number units which shall be made available for rental to Low Income Households. Furthermore, HOP Units created as part of such Low or Moderate Income Housing Developments shall have Re-sale Controls imposed on them consistent with 760 CMR 37.08.

Those units financed with HOP Assisted Mortgages, or made available for rental to Low Income Households, or otherwise defined as affordable by the Department pursuant to 760 CMR 37.00, may be counted as subsidized for the purposes of demonstrating compliance with the requirements of M.G.L. c. 40B. In accordance with the submission of this material to a local Zoning Board of Appeals as part of the comprehensive permitting process, a developer intending to undertake a HOP Development that also qualifies under 760 CMR 37.10 may apply for a site approval letter from MHFA or from the Massachusetts Housing Partnership prior to the submission of an application under the HOP Program.

37.11: Waiver

The Secretary may waive in writing any provision of 760 CMR 37.00 when, in the judgement of the Secretary, strict compliance with such provision will result in undue hardship and will be inconsistent with the purposes of the HOP Program. No waiver shall be made if it would conflict with the provisions of St. 1985, c. 405, s. 35.

REGULATORY AUTHORITY:

760 CMR 37.00: M.G.L. c. 23B s. 6

APPENDIX A

HOMEOWNERSHIP OPPORTUNITY PROGRAM: MINIMUM CONSTRUCTION STANDARDS AND DESIGN GUIDELINES

I. Minimum Construction Standards

MHFA has established the following **required** minimum construction standards for HOP projects. The primary objective of these minimum construction standards is to produce well-designed units, with operating and maintenance costs affordable to low and moderate income households.

Applicable Codes

The homes must conform to the following codes:

- o Commonwealth of Massachusetts Building Code
- o 105 CMR 410.0 Minimum Standards of Fitness for Human Habitation (State Sanitation Code)

In addition, the developer must secure all necessary local and state approvals governing sewage disposal, environmental protection, historic preservation, zoning and other matters, prior to commencement of construction.

Size of Units

Due to various third party requirements, the minimum size of units within HOP projects must be at least 700 liveable square feet. The size of units will be reviewed to ensure that they:

- o meet the minimum liveable square footage requirement;
- o are comparable to other homes available in the marketplace;
- o include adequate living and storage space for the household size.

Proposals for units smaller than the following recommended minimums will be required to provide information explaining why the units are small:

1 bedroom*	700 square feet
2 bedroom	900 square feet
3 bedroom	1200 square feet
4 bedroom	1400 square feet

* Note: One-bedroom units are not eligible for HOP financing, although developers may choose to provide some one-bedroom market rate units.

APPENDIX A (CONTINUED)

Integration of Affordable Units

The application must show the location of all HOP units and units intended for low-income rental. The location will be reviewed to determine if the affordable homes are integrated throughout the project. There should be no substantial difference between the quality and location of the affordable and market rate units. In general, the affordable units should be dispersed throughout the development.

Quality of Materials

The materials and fixtures to be provided must be listed on the forms or included in the application or in outline specifications. The forms or specifications will be reviewed to determine whether there is substantial difference between the affordable and market homes and to determine if the low or moderate income homebuyer would be subject to excessive maintenance costs.

Appliances

All affordable units must include a stove/range.

Energy Conservation and Energy Systems

Energy conservation materials and energy systems must be listed on the attached form or in outline specifications. These submissions will be reviewed to determine compliance with the energy conservation section of the State Building Code effective July 1, 1988.

If a HOP developer proposes to use an energy source other than the least expensive available, the HOP application must include energy conservation and system information for each proposed unit type on the attached energy budget request form. This information will be analyzed to determine the energy cost to the homebuyer. If the cost is excessive, the application may be rejected.

Guarantees

Homes must be covered by a third-party extended guarantee (at least five years) recognized as acceptable by a federal agency such as FHA.

APPENDIX A (CONTINUED)

II. MHFA DESIGN GUIDELINES FOR HOMEOWNERSHIP PROPOSALS

The following single family design guidelines have been developed to assist developers and their architects in understanding the factors considered by MHFA in the evaluation of designs for homeownership proposals.

The design guidelines provide a general summary of design features that scored well in the most recent HOP competition. The design guidelines are not requirements: they are intended to serve as examples of design features that received high scores. MHP and MHFA recognize that not all development proposals will be able to comply with all design guidelines.

A. Architectural Treatment

VISUAL IMPACT IN RELATION TO COMMUNITY

- o The building form should be appropriate and integrated into the topography and neighborhood.
- o The density characteristics and building form of the proposal should conform to and not detract from the surrounding area.

B. Overall Plan Layout

ORGANIZATION OF THE UNIT INTERIOR

- o Minimum unit sizes are:
  - 700 square feet for 1 bedroom
  - 900 square feet for 2 bedrooms
  - 1200 square feet for 3 bedrooms
  - 1400 square feet for 4 bedrooms
- o Primary bedrooms should have a minimum dimension of 11'-0".
- o Secondary bedrooms should be at least 120 square feet and able to accommodate two single beds and two dressers.
- o Two-bedroom unit designs are most successful if bedrooms are on opposite ends of the unit and can be used by unrelated individuals as well as families.
- o Two-bedroom units with two bathrooms should be designed so that one bathroom is accessible without walking through a bedroom.
- o Washer and dryer hookups, preferably side by side, should be provided.
- o Bulk storage areas should be provided for items like snow tires, skis, and suitcases.

APPENDIX A (CONTINUED)

- o Large entry closets, linen closets outside bathrooms, and large walk-in closets should be provided.

- o Kitchens should be equipped with pantries or broom closets, full appliances in conformance with state energy standards, and high quality cabinets.
- o Opportunities for expansion (addition in a backyard, conversion of an attic or basement) are highly desirable.

- o Garages or covered parking are highly desirable.

- o Where more than 12 units are included in one building, consideration of the Architectural Access Board is advisable.

C. Family Unit Design

ORGANIZATION OF LARGE BEDROOM UNITS

- o Large bedroom units should have direct at-grade entries and private outdoor space.

- o Three-bedroom units should have at least 1.5 baths. Four-bedroom units should have at least 2 full baths. If the unit is more than one floor, one bath or half-bath should be located on each floor.

- o Unit common spaces should have acoustically separate areas for food preparation and socializing. For example, eat-in kitchens with a door or separate dining and living rooms are preferable to open-plan common areas. These areas may alternately be used as bedrooms in cases of temporary immobility or long-term handicap.

- o Unit common spaces should be proportionately larger as the number of bedrooms increases.

D. Site Design

LAYOUT OF SITE, PARKING, ENVIRONMENTAL CONSIDERATIONS

- o Double-loaded parking arrangements, especially on major access roads, should be avoided.

- o Parking layouts are successful when they minimize nuisance from car headlights, noise, and excessive walking distance to the unit, while maintaining visual connection to the unit.

- o Parking ratios should be appropriate to location. For suburban sites, a minimum of 1.5 spaces is appropriate for each two-bedroom (or larger) unit; a minimum of one space is appropriate for each one-bedroom unit.

APPENDIX A (CONTINUED)

- o Recreational facilities should be designed to accommodate market considerations. For example, developments geared to serve large families should provide sand boxes visible from the units for children under 5, "tot lots" for ages 5 to 12, a basketball court for 12 and older, and a tennis court or exercise room for adults.

- o Successful site plans include screened trash removal areas and anticipate snow removal areas.

- o A complete landscape plan which maximizes existing natural features or otherwise enhances open space is highly desirable.

- o Proposals with on-site sewage disposal areas can be submitted for funding consideration only if approvals have been issued by appropriate local or state agencies.

- o Proposals with construction adjacent to or in close proximity to wetland areas can be submitted for funding consideration only if approvals from local or state agencies have been granted.

E. Quality of Materials and Low Operating Costs

Ideally, the design should include energy conservation measures above code requirements and materials with low operating costs.

- o Low maintenance exteriors should be planned. For example: stained wood clapboards with asphalt shingle roofs in low-rise buildings, brick veneer with 10-year warranty roofs for mid-rise buildings, pressure-treated lumber for decks.

- o Insulation levels must be at or above the new building code. Particular attention should be paid to insulation levels of all building components when electrical resistance heating is proposed.

- o Gas, oil, or dual fuel heating systems are preferred.

- o Particular attention should be paid to the code requirements for air infiltration of windows and doors.

F. Design Appropriate to Market

Design and amenities should be provided to attract the target market.

- o Amenities included in the application should be shown clearly on the plans and reflect the desires of the target market.

- o If central laundry facilities are planned, they should be in proportion to and distributed among units.

- o Community rooms should be provided in proportion to the total number of units.

APPENDIX B

HOP TARGET INCOME LEVELS

HOP-assisted units should be targeted to households earning 80% or less of the median income for the area in which the project is located. Communities and developers should refer to the table below -- which identifies 80%-of-median-income as of November 1988 -- to determine the maximum incomes to which HOP-assisted units should be targeted. Further information on the income levels that should be established for specific HOP prices is contained on page 19 of these guidelines.

Household Size	Boston Area	Balance of State
1 - 4	$34,000	$32,960
5	$36,150	$35,050
6	$38,250	$37,080
7	$40,400	$39,140
8	$42,500	$41,200